Crl. W. P. No. 608 of 2007

Present: Mr. J.S. Dadwal, Advocate
for the petitioner.

Mr. T.S. Salana, DAG, Punjab.

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This petition under Article 226/227 of the Constitution of India read with Section 482 Cr.P.C. has been filed for issuance of a roving writ in the nature of Habeas Corpus for directing the respondents No.2 and 3 to release the detenu Raj Kumar as detailed in the head note of the petition.

It is alleged that the Station House Officer, Police Station, Focal Point, Ludhiana (respondent No.3) alongwith 3/4 other police officials on 18.05.2007 at about 8:30 P.M. had come to the house of the petitioner and forcibly taken away Raj Kumar detenu in connection with the murder of one Navin Kumar, whereas, the detenu has no concern or connection with it. Vide order dated 28.05.2007, a Warrant Officer to be nominated by the Registry was appointed, who was to search the precincts of the Police Station Focal Point, Ludhiana or any other place pointed out by the petitioner. The Warrant Officer after conducting necessary raid has submitted his report on 29.05.2007. It is stated in the report that on visiting the Police Post Sherpur under the Police Station Focal Point, Ludhiana, Raj Kumar detenu and his associate Vakil Yadav were found and they had been called to the Police Post for the purposes of investigation in case FIR No.155 dated 18.05.2007 registered at Focal Point, Ludhiana for the offence under Section 302 IPC. He was summoned after giving a notice under Section 160 Cr.P.C. The FIR No.155 dated 18.05.2007 that had been recorded was shown as also the original notice under Section 160 Cr.P.C. The name of the detenu Raj Kumar was also mentioned in the said document. DDR entry No. 23, dated 28.05.2005 showing the arrest of the detenue Raj Kumar along with his associate Vakil Yadav was also supplied to

the Warrant Officer by the Incharge of the Police Post – Sherpur.

Reply has been filed by Deputy Superintendent of Police, Industrial Area, Ludhiana on behalf of respondents No.1 to 3 and it is inter alia stated that the raid conducted by the Warrant Officer of this Court at Police Post Sherpur vide DDR No.16 at 8.30 P.M., Raj Kumar-detenu and one Vakil Yadav were found in custody in case FIR No. 155 dated 18.05.2007 registered at Police Station Focal Point, Ludhiana for the offences under Sections 302, 307, 34 IPC. The copy of the statement of Inder Narayan Yadav complainant forming the basis of the FIR has been attached as Annexure-R1. The detenu-Raj Kumar and his associate Vakil Yadav were produced before the Court of Ilaqa Judicial Magistrate First Class, Ludhiana on 29.05.2007 and were got remanded to police custody till 31.05.2007. On the latter date they were sent to judicial custody.

Keeping in view the fact that the arrest of the petitioner has been shown to be legal at the time of raid by the Warrant Officer at Police Post Sherpur and the detenu Raj Kumar and his associate Vakil Yadav had been arrested in a criminal case under Sections 302, 307, 34 IPC, no ground is made out to issue a writ in the nature of Habeas Corpus.

Consequently, the Criminal Writ Petition is dismissed.

(S.S. SARON)
JUDGE

28.08.2007
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